

J.W. asks the Utah Labor Commission to review Administrative Law Judge La Jeunesse's decision regarding Mr. Ward's claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. W. was working as a truck driver for Cargo Link on October 31, 2002, when he fell from a truck. On November 3, 2003, Mr. W. filed an application to compel Cargo Link and its insurance carrier, Workers Compensation Fund (referred to jointly as "Cargo" hereafter), to pay workers' compensation benefits for injuries allegedly caused by the accident. Judge La Jeunesse held an evidentiary hearing on Mr. W.'s claim on May 17, 2004, and then appointed a medical panel to evaluate the medical aspects of the claim. The panel submitted its report on September 28, 2005.

Judge La Jeunesse issued his decision in this matter on December 30, 2005. Specifically, Judge La Jeunesse accepted the medical panel's conclusion that Mr. W.'s work accident at Cargo caused only a temporary aggravation of his preexisting back problems. On that basis, Judge La Jeunesse 1) denied Mr. W.'s claim for additional temporary disability compensation, and 2) limited Cargo's liability for medical benefits to only the treatment and physical therapy immediately following the accident.

Mr. W. now asks the Commission to review Judge La Jeunesse's decision. Mr. W. argues that his work accident at Cargo on October 31, 2002, permanently aggravated his preexisting back problems and necessitated additional surgery. Mr. W. contends he is entitled to the additional disability compensation and medical expense arising from such permanent aggravation.

FINDINGS OF FACT

The Commission affirms and adopts Judge La Jeunesse's findings of fact. As relevant to the issue raised in Mr. W.'s motion for review, the facts can be summarized as follows.

Mr. W. has a history of low back problems dating back to November 1, 1979, including traumatic injuries from various work and motor vehicle accidents. By 1992, he was diagnosed with a herniated disc at the L4-5 level of his spine. He underwent surgery in 1993. Thereafter, he suffered additional accidents and experienced continuing radicular symptoms.

Mr. W.'s work accident at Cargo on October 31, 2002, involved falling 40 inches from a truck and landing "stiff-legged" on his feet on the ground. He jarred his low back and felt severe pain, but the pain subsided and Mr. W. was able to continued working that day and for the next several months. The preponderance of medical opinion, including that of the medical panel, establishes that Mr. W.'s accident at Cargo temporarily aggravated his preexisting back problems,

but Mr. W. returned to his pre-accident condition by early December, 2002.

DISCUSSION AND CONCLUSION OF LAW

Mr. W. is seeking medical benefits and disability compensation for his low-back problems. The Commission has reviewed the medical evidence on this point, including the medical panel's report. The Commission has also considered Mr. W.'s objections to the panel's report. Contrary to Mr. W.'s criticism of the panel's report, the Commission finds the report persuasive. On that basis, the Commission agrees with Judge La Jeunesse's determination that Mr. W.'s accident at Cargo caused only a temporary aggravation of his low-back problems, which aggravation was resolved by early December, 2002. Judge La Jeunesse correctly restricted Mr. W.'s workers' compensation benefits accordingly.

ORDER

The Commission denies Mr. W.'s motion for review and affirms Judge La Jeunesse's decision. It is so ordered.

Dated this 22nd day of February, 2006.

R. Lee Ellertson
Utah Labor Commissioner